

**Kansas Dental Board
Minutes of November 7, 2008**

The Kansas Dental Board met on November 7, 2008, at 9:00 am at the UMKC School of Dentistry, Room 250, Kansas City, Missouri.

The following committee met prior to the meeting: Regulatory Review

1. MEETING CALLED TO ORDER: Dr. Richard Darnall, DDS, President called the meeting to order at 9:00 am.

MEMBERS PRESENT: Dr. Richard Darnall, DDS, President; Ms. Jane Criser, RDH, Vice –President; Ms. Denise Maus, RDH, Secretary; Dr. Karen Callanan, DDS; Dr. Brad Higgerson, DMD; Dr. Roger Stevens, DDS.

STAFF PRESENT: Mr. Randy Forbes, attorney for the Board; Betty Wright, Executive Director; Dr. Steven Johnson, Board inspector (present until noon) and Melissa Graham, Admin. Officer.

ABSENT: Robert Henson, DDS; Ms. Korey Hensley, public member; Dr. Richelle Roy, DDS.

2. APPROVAL OF AGENDA: It was moved and seconded to approve the agenda. The motion passed.

ADJOURNMENT: The Board meeting was adjourned for the Public hearing at 9:02 a. m.

3. The public hearing on student extern regulations began at 9:02 a.m. Article 9. Practice of Dentistry by A Dental Student KAR 71-9-1 through 71-9-4; and Article 10, Practice of Dental Hygiene by A Dental Hygiene Student KAR 71-10-1 through 71-10-4.

The board received written comments from the Joint Committee on Administrative Rules and Regulations and the Kansas Dental Association (KDA). There was public comment from Margaret LoGiudice, Johnson County Community College, Dental Hygiene Program; Dr. Kathy Weno, DDS, Director of the Office of Oral Health, KDHE; Kevin Robertson, KDA; Dr. Mark Hungerford, DDS, Manhattan, KS; and Michael McCunniff, DDS, Director of Outreach of UMKC School of Dentistry.

Comments requested expansion of approved student extern locations. Written comment questioned whether consent for care by a student should be more limited.

It was moved and seconded to close the public hearing after all comments were made. The public hearing was closed at 9:35 a.m.

RECONVENE: At 9:36 a.m. President Darnall reconvened the Board meeting.

It was moved and seconded to strike the limiting language of 71-9-3(b) and replace "that qualifies under KSA 65-1466(a) and the amendments thereto" with "a licensee or entity approved by the board." There was discussion that the language change would increase the possibilities for placing dental student externs. The board discussed that this change is not a substantial change to the method of monitoring the program. **The motion passed.**

The issue of consent was discussed. Consent is given upon the first visit to an office for treatment by a student. The Board agreed that the current language is adequate for this type of consent and did not suggest a change.

It was moved and seconded to amend 71-9-3(e) by inserting "appropriate" in place of "the" the regulation will state "the administrator of the program shall have proper policies and procedures in place to ensure the appropriate care of each patient treated in the program." **The motion passed.** The board agreed this is not a substantial change in the regulations.

ARTICLE 9 REGULATIONS APPROVED

It was moved and seconded to adopt the Article 9 regulations KAR 71-9-1 through 71-9-4 as amended. A roll call vote was taken with the following votes: Damall-yes; Callanan-yes; Higgerson-yes; Stevens-yes; Criser-yes, Maus-yes. The regulations were adopted.

The public was asked if there were any further comments on the dental hygiene student regulations KAR 71-10-1 through 71-10-4. There were no further comments.

It was moved and seconded to strike the limiting language of 71-10-3(b) and replace "that qualifies under KSA 65-1466(a) and the amendments thereto" with "a licensee or entity approved by the board." The motion passed.

It was moved and seconded to mirror the change made in 71-9-3 (e) by inserting "appropriate" in place of "the" the regulation will state "the administrator of the program shall have proper policies and procedures in place to ensure the appropriate care of each patient treated in the program." The motion passed. The board agreed this is not a substantial change in the regulations.

It was moved and seconded to adopt the Article 10 - 71-10-1 through 71-10-4 regulations as amended. A roll call vote was taken with the following votes: Damall-yes; Callanan-yes; Higgerson-yes; Stevens-yes; Criser-yes, Maus-yes. **The regulations were adopted.**

It was moved and seconded to ask the board if the revisions to the regulations were substantial changes, the board voted 3 no, 2 yes. The board agreed this is not a substantial change in the regulations.

ARTICLE 10 REGULATIONS APPROVED

It was moved and seconded to adopt the Article 10, Practice of Dental Hygiene by A Dental Hygiene Student KAR 71-10-1 through 71-10-4 as amended. A roll call vote was taken with the following votes: Damall-yes; Callanan-yes; Higgerson-yes; Stevens-yes; Criser-yes, Maus-yes. **The regulations were adopted.**

4. APPROVAL OF MINUTES: **It was moved and seconded to approve the July 25, 2008 minutes.** **The motion passed.**

RECESS: At 10:30 a.m. President Damall recessed the meeting until 10:55 a.m.

RECONVENE: President Damall reconvened the Board meeting at 10:55 a.m.

5. REPORT OF PRESIDENT: President Richard Damall reports that the Board is now a member of the Western Regional Examination Board (WREB). He appointed Dr. Roger Stevens as the dental representative on the dental exam review committee, and Ms. Denise Maus as the dental hygiene representative on the hygiene Exam Review Committee (ERC). Dr. Stevens reports that he will attend a WREB board meeting in January 2009. WREB encourages board members to become WREB examiners, and Dr. Stevens and Ms. Maus will become WREB examiners in addition to being CRDTS examiners. We will ask those licensees who had previously applied to be CRDTS examiners to consider applying to be appointed as WREB examiners.

6. BOARD ACTIONS: The following Stipulation Order was presented by Randy Forbes: Brian Ahern, DDS. The action was based upon a Missouri discipline for failing to provide evidence of completion of continuing education hours for his 2006 Missouri renewal. The stipulation presented would mirror the Missouri order to be on probation, provide CE courses, and take a jurisprudence examination. **It was moved and seconded to not approve the stipulation. The motion passed.** The board directed counsel to offer a stipulation order that included a fine, similar to previous cases regarding continuing education audits.

7. INVESTIGATIONS REPORT: Dr. Higgerson described the meetings are occurring more frequently, we try to meet once a month on the months when there is not a board meeting. The three member committee reviews an average of 20-25 cases at each meeting. The committee can act promptly if they find that patients are in immediate danger. In those rare instances, an emergency suspension can result directly from the committee. Approximately one half of the cases reviewed are closed with no action due to lack of evidence or in situations where no violations are found.

Dr. Johnson discussed dental office sanitation inspections. He handled 31 complaints in October, with 69 dentists inspected. About 10% of those inspected had problems with spore testing, most for failure to keep spore logs. About 20% were noncompliant in offices not keeping their sterilized instruments in bags until immediately before use.

Dr. Callanan provided a hand-out listing many of the non licensee owned private practice locations in which dentistry is practiced in Kansas.

8. PUBLIC FORUM – no comments.

9. The board addressed an inquiry by Daniel Christopher, of Colorado: Is any duly licensed dentist in Kansas not violating 65-1439 when advertising dentures and other prosthetic devices in compliance with 65-1437, as long as he/she does not associate with an unlicensed person who is in violation for 65-1438(A)(B) or (C)? The board discussed the question and instructed Randy Forbes and Betty Wright to draft a letter stating that advertising a product is not a violation, providing there are no claims of superiority.

RECESS: At 12:15 pm President Damall recessed the meeting for lunch until 1:30 p.m.

RECONVENE: President Damall reconvened the Board meeting at 1:30 p.m.

10. The public hearing on sedation/anesthesia regulations K.A.R. 71-5-7 through K.A.R. 71-5-14 began at 1:30 p.m.

The board received written comments from the Joint Committee on Administrative Rules and Regulations; Dr. Paul Kittle, DDS; Ron Keller, CRNA; Tam Smith, BS, RDH, EMT; Reed Vomhof, paramedic; and John Bitting, Esq. of DOCS.

There was public comment from Reed Vomhof, paramedic, Dr. Clay Sligh, DDS, Dr. Dave Hamel, DDS; John Bitting of DOCS; Dr. Paul Hund, DDS; Tam Smith, BS, RDH, EMT and Dr. Hoanh Le, DDS.

One public comment described concern with Level III permit holders that the two assistants were only required to have a CPR course. The commenter felt the assistants should have at least basic life support certification. The commenter also stated the regulations are not clear that the dentist must be personally administering the sedation. Thirdly, that oral surgeons who use ventilators on unconscious patients are not physically able to perform dental surgery, monitor the ventilator and administer sedation at the same time. The commenter described that if a patient is under general anesthesia and on a ventilator, the office should be required to follow the Board of Healing Arts guidelines for office based surgery.

Comments described that the requirement for live patient training is costly and not practical, and that videos demonstrating problems of recovering patients are more instructive.

A commenter was concerned that 71-5-9(h) adds confusion to the understanding of whether or not a CRNA or anesthesiologist can provide anesthesia in a hospital setting. The commenter asked that "under supervision" be deleted.

A comment was made that all dentists and hygienists should be required to have at least basic life support training.

It was proposed that the ADA 2006 pediatric guidelines be followed or adopted.

It was proposed that the requirement for sedating children under 13 years of age in 71-5-11 (d)(2) in which the primary physician must be contacted is unnecessary except in certain cases. It was recommended to revise this section to guidelines which require that persons with advanced training review the medical history.

It was proposed to restructure the regulations. Rather than categorize according to the route of administration of the sedatives, to instead structure the regulation according to the level of consciousness of the patient. Patients are either conscious, or unconscious and when unconscious the parameters and monitoring should be increased.

Public comment ended at 2:10 pm. The Public Hearing was closed.

RECONVENE: President Darnall reconvened the Board meeting at 2:10 p.m.

It was moved and seconded to send the regulations back to the committee to review the suggestions from the public meeting. The board discussed whether to move forward with the regulations as proposed in order to have something in place for the safety of the public. Public safety remains the goal of the committee. Dr. Stevens offered direction to the committee to bring the sedation regulations up to date with the current, accepted terminology with regard to levels of sedation and to and to consider reasonable and adequate educational requirements. **Motion passed.**

RECESS: At 3:00 pm President Darnall recessed the meeting until 3:15 p.m.

RECONVENE: President Darnall reconvened the Board meeting at 3:15 p.m.

11. EXECUTIVE REPORT: Betty Wright has published the newsletter for October. She described the UMKC International student program in which dental degree can be granted in 3 semesters with competency checks. The degree is approved by CODA and is an ADA accepted practice. One CE course was described as being presented by the 5th District, however was presented by a comedian. The board instructed Betty Wright to send a letter to the 5th District advising them in the future to present programs based upon dental topics for continuing education pursuant to KAR 71-4-2. The newsletter and website should address this topic.

12. COMMITTEE REPORTS: Regulatory Review Committee

Dr. Callanan presented the recommendation of the Regulatory Review Committee concerning teeth bleaching as a motion to add a new section (d) to 71-6-2 Acts Restricted.

It was moved and seconded to accept the following language as a proposed new regulation:

71-6-2(d) a nonlicensed person shall not perform a dental service of any kind on a person which alters the color or physical condition of natural, restored or prosthetic teeth; or requires the positioning and adjustment of equipment or appliances for the purpose of altering the color or physical condition of natural, restored or prosthetic teeth except under the direct supervision of a dentist licensed and practicing in Kansas."

Discussion - The proposed language may be stretching the intent of the statute, 71-6-2 describes Dental Auxiliaries, in which the statute is describing persons who are dental assistants. The language extends the definition of nonlicensed persons to people who are working outside of a dental office, it is an awkward placement. The Attorney General's guidance was to redefine or clarify the meaning of the practice of dentistry. **The motion failed.** The language for a regulation pertaining to teeth whitening by nonlicensed personnel will be considered at the next regulatory review committee meeting.

Ms. Jane Criser submitted report on the recent ADEX Dental Hygiene Committee meeting.

13. NEW BUSINESS: The Board was provided a request from Dr. Brian Jenkins for modification of his Board Order. He requested a modification to allow him to work in a private practice in addition to his work at GraceMed, Wichita. **It was moved and seconded to deny the modification,** based upon his short

length of employment at Gracemed; he has worked there since March 2008. **The motion passed, the modification is denied.**

Randy Forbes suggested the Board may want a revision to the Dental Practice Act regarding sedation permits. Currently we do not have the statutory authority to do emergency suspensions of sedation permits at KSA 65-1444 (c)

14. Executive Session. It was moved and seconded that the board move into executive session to discuss matters relating to non-elected personnel to begin at 4:10 p.m. for 10 minutes. The board went into executive session at 4:10 p.m. The Board meeting reconvened at 4:20 p.m.

The board directed Betty Wright to provide a list of all ADA approved dental and dental hygiene schools for approval by the board at the next meeting.

The board directed Betty Wright to provide a list of all regional board examinations for approval at the next board meeting.

15. The next board meeting will be January 30, 2009 at 9:00 a.m. in Topeka. The Regulatory Review committee will meet at 12:30 pm on Dec 19, 2008 in the Board office.

16. It was moved and seconded to adjourn at 4:30 p.m. The motion passed. The meeting was adjourned.

The following were guests of the Dental Board meeting: Kathy Weno, DDS, KDHE; Cathy Harding, KAMU; Margaret LoGuidice, RDH, JCCC; Dr. Paul Kittle, DDS, Dr. Hoanh Le, DDS; Emily Bartell, Clay A. Sligh, DDS; Dave Hamel, DDS; Paul Hund, DDS, Gregory A Thompson, DDS, UMKC; John Fales, DDS; Tam Smith, RDH; Mike McCunniff, DDS, UMKC; and Terry Criser.

Denise L. Maus 1-30-09
Denise Maus, RDH Secretary date